

Message Text

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ACTION L-03

INFO OCT-01 EUR-25 ADP-00 SCA-01 CPR-02 CIAE-00 INR-10

NSAE-00 RSC-01 RSR-01 PPT-02 /046 W

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P 111550 Z APR 73 ZDK

FM AMEMBASSY PRAGUE

TO SECSTATE WASHDC PRIORITY 4150

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E. O. 11652: N/ A

TAGS: CGEN, PFOR, CZ

SUBJ: CONSULAR CONVENTION NEGOTIATIONS

REF: (A) STATE 64472; (B) STATE 40265

1. BEGIN SUMMARY. AGREEMENT ON SUBSTANCE OF REMAINING ARTICLES OF CONVENTION REACHED DURING EXPERT- LEVEL DISCUSSIONS ON APRIL 10 AND 11. MEETINGS TO WORK OUT AGREED TEXTS AND TO RESOLVE OUTSTANDING QUESTIONS SCHEDULED TO BEGIN APRIL 16 WITH DEPARTMENT LEGAL OFFICER PRESENT. INITIAL DISCUSSION OF EXCHANGE OF NOTES ON DUAL NATIONAL ISSUE WILL TAKE PLACE IMMEDIATELY FOLLOWING AGREEMENT ON TEXT OF CONVENTION. END SUMMARY.

2. US AND CZECH EXPERTS REVIEWED ENTIRE TEXT OF CONVENTION DURING MEETINGS HELD APRIL 10 AND 11 AND, WITH EXCEPTIONS NOTED BELOW, REACHED AGREEMENT ON ALL ARTICLES OF CONVENTION. BOTH SIDES AGREED THAT REMAINING PROBLEM AND

MINOR WORD CHANGES COULD BE RESOLVED DURING MEETINGS WITH LEGAL OFFICER FROM DEPARTMENT PRESENT. WE EXPECT THAT THESE MEETINGS WILL RESULT IN AGREED TEXT. CZECHS PROPOSED THAT FORMAL NEGOTIATING SESSION BE HELD LATE IN MAY BETWEEN CSSR GOVERNMENTAL DELEGATION AND DELEGATION FROM EMBASSY TO BE CONCLUDED BY INITIALING OF CONVENTION.

3. QUESTIONS REMAIN ON THE FOLLOWING ARTICLES:

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A. ARTICLE 25- CZECHS SAID THAT BECAUSE OF PROVISIONS OF CSSR LAW THEY COULD NOT AGREE TO PROVISION IN ARTICLE 25 WHICH

WOULD ALLOW CONSULAR EMPLOYEES RIGHT OF CONTINUING DUTY- FREE ENTRY. WE LEFT ARTICLE OPEN. WE BELIEVE THAT IN VIEW OF CZECH POSITION AND OF ASSURENCES THAT THIS PRIVILEGE MAY BE GRANTED INFORMALLY AND WITHOUT RECIPROCITY TO US CONSULAR EMPLOYEES IN CSSR WE SHOULD ACCEPT CZECH DRAFT.

B. ARTICLE 31- DURING DISCUSSION OF VALIDITY OF CONSULAR MARRIAGES IN US IN CONNECTION WITH ARTICLE 31, CZECHS POINTED OUT THAT PROVISIONS OF CSSR DRAFT AS AMENDED BY US PROPOSAL (PARAGRAPH 11 OF REFTEL B) WOULD APPEAR TO SPECIFICALLY GRANT VALIDITY IN US TO MARRIAGES PERFORMED IN US BY CSSR CONSULAR OFFICERS DESPITE DEPARTMENT' S VIEW REPORTED IN PARAGRAPH 3 OF REFTEL A. WE AGREED TO REVIEW DISCREIANCY AND IF US GOVERNMENT POSITION IS THAT SUCH MARRIAGES ARE NOT VALID UNLESS PERFORMED IN ACCORDANCE WITH LOCAL LAW, WE WOULD

PROPOSE LANGUAGE TO THAT EFFECT. WE DO NOT BELIEVE THAT CZECHS ATTACH MUCH IMPORTANCE TO ISSUE AND RECOMMEND THAT WE SUBMIT ADDITIONAL LANGUAGE.

C. ARTICLE 34- CZECHS PROPOSED THAT LANGUAGE BE ADDED TO PARAGRAPH 5 OF ARTICLE 34 SO THAT IT WOULD READ: " A CONSULAR OFFICER SHALL BE ENTITLED, IN ACCORDANCE WITH THE LAWS AND REGULATIONS OF THE RECEIVING STATE, TO RECEIVE NONEY OR OTHER PROPERTY ON BEHALF OF A NATIONAL OF THE SENDING STATE WHO IS NOT DOMICILED IN THE RECEIVING STATE, O WHICH THE NATIONAL CONCERNED MAY BE ENTITLED AS A CONSEQUENCE OF THE DEATH OF ANY PERSON, INCLUDING PAYMENTS MADE IN PURSUANCE OF WORKMEN' S COMPENSATION LAWS, WITHIN A PENSIONS AND SOCIAL SECURITY SCHEME AND THE PROCEDES FROM INSURANCE POLICIES. THE LAWS AND REGULATIONS OF THE RECEIVING STATE MUST BE APPLIED SO AS TO GIVE FULL EFFECT TO THE PURPOSES FOR WHICH THESE RIGHTS ARE INTENDED." WE LEFT ARTICLE OPEN.

D. ARTICLE 36- CZECHS SAID THAT OTHER THAN TIME LIMIT ON NOTIFICATION, THEY ACCEPT ARTICLE III OF US DRAFT CONVENTION AS SUBSTITUTE FOR LANGUAGE OF ARTICLE 36. THEY PROPOSED AND AFTER LENGTHY DISCUSSION OF NOTIFICATION PROCEDURES WE AGREED TO THREE- DAY NOTIFICATION LIMIT. CZECHS ALSO AGREED THAT TERM " DAYS" IN ARTICLE 36 WOULD REFER TO 24- HOUR PERIODS WITHOUT EXCEPTION OF HOLIDAYS AND LIMITED OFFICIAL USE

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WEEKENDS, BUT PREFERRED NOT TO INCLUDE HOUR FIGURE IN TEXT

OF CONVENTION. CZECHS PROPOSED INCLUSION OF PROVISIONS OF PARAGRAPH 3 OF ARTICLE 36 OF CSSR DRAFT IN PARAGRAPH 1 OF ARTICLE III OF DRAFT US CONVENTION. SINCE THIS ADDITION WOULD BE OF VALUE TO US WE AGREED.

4. CZECHS AGREED TO US PROPOSAL ON ARTICLE 14 WHICH MAKES INVIOABILITY ABSOLUTE BUT LIMITS IT TO CONSULAR PREMISES AND RESIDENCE OF HEAD OF CONSULATE.

5. ARRIVAL OF DEPARTMENT LEGAL OFFICER APRIL 13 AGREEABLE TO EMBASSY. IF EMBASSY SUPPORT FOR VISA APPLICATION NECESSARY REQUEST THAT DEPARTMENT PROVIDE DATE AND PLACE OF BIRTH AND PASSPORT NUMBER OF MR. SHAMWELL.
SHERER

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